

# **Exhibit 11**

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

3 -----  
4 **BLACK LOVE RESISTS IN THE RUST, et al.,**  
5 **individually and on behalf of a class of**  
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.  
11 -----

12 **EXAMINATION BEFORE TRIAL OF DONNA ESTRICH**

13 **APPEARING REMOTELY FROM**

14 **ERIE COUNTY, NEW YORK**

15  
16 July 12, 2023

17 11:02 a.m. - 3:43 p.m.

18 pursuant to notice  
19  
20

21 REPORTED BY:

22 Carrie A. Fisher, Notary Public

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202  
716-853-5544

~~DONNA ESTRICH~~

1 Q. Was it Danielle Morgera?

2 A. Danielle Morgera, yeah, right, right. Thank  
3 you.

4 Q. And was it your goal or your department's goal  
5 to balance the budget?

6 A. Yes, we had to have a balanced budget by  
7 charter.

8 Q. Okay. And by "balanced budget," does that  
9 mean that revenues equal or exceed  
10 expenditures?

11 A. Revenues equal expenditures.

12 Q. Okay. And how did you go about balancing the  
13 budget?

14 MR. SAHASRABUDHE: Form.

15 A. If we -- the revenues were not large enough,  
16 we would cut expenditures. We'd cut  
17 positions, we'd cut supplies or services.

18 Q. Would you ever seek out ways to increase  
19 revenue?

20 A. We would ask departments if they had any, you  
21 know, anticipation of anything new coming in,  
22 permits, you know, we had fees and fines on  
23 those things. And the permits department they

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1           were doing inspections so sometimes they would  
2           have some new ideas, mm-hmm, so yes.

3           Q. Would -- would you ever propose new ideas to  
4           increase revenues?

5           A. I did not do that, no.

6           Q. Okay. Would the mayor's office ever propose  
7           ideas to increase revenues?

8           A. Not directly to me. They might have worked  
9           with the departments and put in  
10          recommendations for them to look at different  
11          things, but I don't know. I never got one  
12          from them.

13          Q. Did the mayor's office ever express to you a  
14          goal to increase revenues?

15          A. Well, the only time we would -- you would want  
16          to increase revenues is because he was very  
17          insistent on keeping our property taxes level.  
18          And I would say, "we're going to have to raise  
19          taxes to cover the budget," and he would say,  
20          "well, then I have to find some more revenues.  
21          We need to do something else." And --

22          Q. Okay. Do you know what else he would do to  
23          find revenues?

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1 MR. SAHASRABUDHE: Form.

2 A. No.

3 Q. So you mentioned that he wanted to keep  
4 property taxes. Why was that?

5 A. Well, he thought it was important to keep the  
6 property tax at a level amount so people knew  
7 what they were going to be paying. You know,  
8 people were just starting to invest in the  
9 city, both commercial and residential, so he  
10 wanted more and more investment into the city.

11 Q. Do you know if the mayor ever tried to  
12 increase revenues through traffic tickets or  
13 fines?

14 MR. SAHASRABUDHE: Form.

15 A. I'm not sure what I understand you're asking.

16 Q. Okay. You mentioned that the mayor had  
17 expressed to you that he would look for other  
18 ways to increase revenue. Do you know if one  
19 of those ways was through traffic fines?

20 MR. SAHASRABUDHE: Form.

21 A. I don't think that was the mayor's idea, no.

22 Q. Okay. Did someone else have that idea?

23 MR. SAHASRABUDHE: Form.

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1 A. I think -- and this is not a hundred percent  
2 clear in my mind so I don't want to, you know,  
3 put this but I believe we had read articles,  
4 we had seen an article -- I think the parking  
5 commissioner had seen an article about Amherst  
6 and how the parking comes back into the town  
7 of Amherst so he had started looking into that  
8 I think, maybe the City could do that as  
9 opposed to all the money going to the State.

10 Q. Okay. And you mentioned the parking  
11 commissioner. Was that Kevin Helfer?

12 A. Yes, it was.

13 Q. Okay. And did that idea lead to the BTVA?

14 A. Yes, I believe it did.

15 Q. Okay.

16 MR. SAHASRABUDHE: Note my -- I object  
17 to the form of the last question, just want to  
18 note that.

19 Q. Okay. Do you recall any years while you were  
20 commissioner where expenditures exceeded  
21 revenues?

22 A. Yes.

23 Q. Okay. Do you -- are you able to say which

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1           years that was?

2           A. No.

3           Q. Okay. Was it most years you were  
4           commissioner?

5           A. No.

6           Q. Okay. And if expenditures exceed revenues,  
7           how are the expenditures paid for?

8           A. Then at year end when they close up the books  
9           is what they say they would use the fund  
10          balance.

11          Q. And is that the fund balance from the City's  
12          general fund?

13          A. Yes, it is.

14          Q. Okay. And do you -- do you have any role in  
15          tracking revenue and expenditures during the  
16          year? Oh.

17                 MR. SAHASRABUDHE: Donna, are you  
18          frozen?

19                 MR. JOACHIM: Yeah, I think she may have  
20          froze.

21                 MR. SAHASRABUDHE: Give it a minute.

22          Q. I am sorry, you froze there so I don't think  
23          we got your answer.

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1 about the number of expected moving violations  
2 that would be issued before BTVA was created?

3 A. I don't remember.

4 Q. So ultimately BTVA was created, right?

5 A. Yes.

6 Q. Okay. And that allowed City of Buffalo to  
7 keep a higher percentage of revenue from  
8 traffic tickets?

9 A. Yes.

10 Q. Let's pull up Exhibit 9.

11 Exhibit 9 is the 2017 to 2018 adopted  
12 budget, and it's specifically the summary of  
13 department revenue by source for that budget.  
14 Do you see that on your screen?

15 A. Yes, I do.

16 Q. Okay. So first I want to walk through some of  
17 these columns and just understand how they're  
18 developed. So first there's three columns  
19 that list the actual amounts for various  
20 categories. The actual amount is the amount  
21 in this -- in this document the actual amount  
22 is the amount of revenue that is brought in in  
23 the particular years; is that right?

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1 Q. Okay. And do you recall in the last exhibit  
2 we looked at, the adopted budget for traffic  
3 fines was \$6.2 million?

4 A. Okay.

5 Q. Do you recall that?

6 A. I don't remember what years to be honest you  
7 were looking at but yes. Was it '17-'18?

8 Q. Yes, '17-'18.

9 A. Yeah. Then, yes, it was 6 something.

10 Q. So just to lay it out here. In the adopted  
11 budget we had -- adopted budget for 2017-2018  
12 we had \$6.2 million for traffic fines, and  
13 then in this document in the Work Program  
14 Statistics we have an estimate of \$4.2 million  
15 to be collected by the BTVA. Do you see that?

16 A. Yes.

17 Q. So there's a \$2 million gap between those two  
18 numbers, right?

19 A. Yes.

20 Q. What accounts for that difference?

21 MR. SAHASRABUDHE: Objection to form.

22 A. I believe there was something else included in  
23 there, and I would have to look at the

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1 A. I'm sure you're going to show me some so...

2 Q. I'm just trying to understand why he is  
3 sending this to you.

4 A. Well, I'm sure part of it is they're out there  
5 working, part of it is he's bringing money in  
6 for towing and for booting.

7 Q. Give me one moment. Okay. We are on Exhibit  
8 38, and I apologize a bit for jumping around.

9 Exhibit 38 is a Buffalo Fiscal Stability  
10 Authority Annual Report, this one for the  
11 fiscal year ended June 30th, 2017, so earlier  
12 than the last BFSA report we looked at. And I  
13 want to refer to page 56 of this report, okay,  
14 and there's a second to last paragraph that  
15 starts with the word "fines." Do you see  
16 that?

17 A. I do.

18 Q. Okay. And it says, "Fines are projected to  
19 increase by 3.6 million over the course of the  
20 financial plan, which represents a substantial  
21 increase of 25.2 percent." The financial plan  
22 it's referring to here, is that the four-year  
23 plan?

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1 A. Yes.

2 Q. Okay. And it says, "The projected growth is  
3 largely driven by the administration's ability  
4 to adjudicate traffic violations locally which  
5 allows the City to retain revenue from fines  
6 as City revenue as opposed to remitting the  
7 collections to the State." Do you see that?

8 A. Yes.

9 Q. And that's referring to the creation of the  
10 BTVA?

11 A. Yes.

12 Q. And the BTVA drove an increase in revenue for  
13 the City, right?

14 A. Yes.

15 Q. Then it says, "The estimated revenue from the  
16 traffic adjudication process is 6.2 million  
17 for 2018 which increases to 7.3 million in  
18 2019 and 2020 and further increases to 9.4 in  
19 2021. This represents an increase of 3.2  
20 million or 51.6 percent over the financial  
21 plan." Do you see that sentence?

22 A. I do.

23 Q. How did you make these projections in the

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE )

3  
4 I, Carrie A. Fisher, Notary Public, in and  
5 for the County of Erie, State of New York, do  
6 hereby certify:

7 That the witness whose testimony appears  
8 hereinbefore was, before the commencement of  
9 their testimony, duly sworn to testify the  
10 truth, the whole truth and nothing but the  
11 truth; that said testimony was taken remotely  
12 pursuant to notice at the time and place as  
13 herein set forth; that said testimony was taken  
14 down by me and thereafter transcribed into  
15 typewriting, and I hereby certify the foregoing  
16 testimony is a full, true and correct  
17 transcription of my shorthand notes so taken.

18 I further certify that I am neither counsel  
19 for nor related to any party to said action,  
20 nor in anyway interested in the outcome  
21 thereof.

22 IN WITNESS WHEREOF, I have hereunto  
23 subscribed my name and affixed my seal this  
26th day of July, 2023.

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Carrie A. Fisher  
Notary Public - State of New York  
No. 01FI6240227  
Qualified in Erie County  
My commission expires 5/02/27

DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202  
716-853-5544